

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

In re:	Chapter 11
Archdiocese of Milwaukee,	Bankruptcy Case No. 11-20059-SVK
Debtor.	

Archdiocese of Milwaukee Catholic Cemetery Perpetual Care Trust on behalf of itself and its beneficiaries,	Adv. Proc. No. 11-02459-SVK
Plaintiff,	
vs.	

Official Committee of Unsecured Creditors,

Defendant.

Official Committee of Unsecured Creditors,

Counterclaimant,

vs.

Archdiocese of Milwaukee Catholic Cemetery
Perpetual Care Trust; and Archbishop Jerome E.
Listecki, Archbishop of the Archdiocese of
Milwaukee, in his capacity as sole Trustee of the
Archdiocese of Milwaukee Catholic
Cemetery Perpetual Care Trust,

Counterdefendants.

**JOINT MOTION TO JOIN AS COUNTERDEFENDANT ARCHBISHOP LISTECKI, IN
HIS CAPACITY AS SOLE TRUSTEE OF THE ARCHDIOCESE OF MILWAUKEE
CATHOLIC CEMETERY PERPETUAL CARE TRUST**

The Official Committee of Unsecured Creditors in the above-captioned bankruptcy case (the “Committee”), the Archdiocese of Milwaukee Catholic Cemetery Perpetual Care Trust (“Trust”) and Archbishop Jerome E. Listecki, Archbishop of the Archdiocese of Milwaukee, in his capacity as sole Trustee of the Archdiocese of Milwaukee Catholic

Cemetery Perpetual Care Trust and not as an individual, (“Archbishop ListECKi”)¹, (collectively, the “Movants”) hereby jointly move the Court pursuant to Federal Rules of Civil Procedure 13, 19 and 20 and Federal Rules of Bankruptcy Procedure 7013, 7019 and 7020, and such other applicable rules, to join Archbishop ListECKi, in his capacity as sole Trustee of the Archdiocese of Milwaukee Catholic Cemetery Perpetual Care Trust and not as an individual, as a counterdefendant in this adversary proceeding. In support of this joint motion, the parties state as follows:

1. This Court has jurisdiction over the instant adversary proceeding, including the Counterclaims, pursuant to 28 U.S.C. §§ 157(b)(1) and 1334; 11 U.S.C. § 105; and Federal Rules of Bankruptcy Procedure 7001.

2. Venue in this judicial district is appropriate pursuant to 28 U.S.C. § 1409.

3. This adversary proceeding, including the Counterclaims, constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

4. On or about January 24, 2011, the United States Trustee appointed Defendant/Counterclaimant, the Committee, to represent the Debtor’s unsecured creditors pursuant to 11 U.S.C. § 1102(a)(1).

5. On June 28, 2011, the Trust filed its *Complaint* (the “Complaint”), seeking declaratory relief that that the Trust is not property of the bankruptcy estate of the

¹ Archbishop ListECKi is trustee by virtue of his position as Archbishop. Should a new archbishop be named during this litigation, the movants agree that the new archbishop be substituted as a party for Archbishop ListECKi in the same capacity and not as an individual.

Archdiocese of Milwaukee (“Debtor” or “AOM”) and that the funds in the Trust are not property of the Debtor’s estate. The Committee is the only defendant named in this adversary proceeding.

6. The Committee has standing to bring its Counterclaims pursuant to the *Order Approving Stipulation Regarding the Official Committee of Unsecured Creditors’ Standing to Defend the Adversary Proceeding, Bring Avoidance Claims Related to the Adversary Complaint, and Litigate and Propose or Accept a Settlement of the Adversary Proceeding, or Part Thereof*, entered September 2, 2011 [Docket No. 12].

7. The Movants agree that the Committee timely filed its Answer and Affirmative Defenses; and Counterclaims. The Movants also agree that Archbishop ListECKi in his capacity as sole trustee of the Trust and not as an individual, is a proper third party.²

8. The Movants agree that Archbishop ListECKi will have thirty (30) days from the issuance of the summons naming him as a party to file an answer to the Committee’s Counterclaims.

9. It is acknowledged and agreed that Attorney Timothy Nixon hereby appears and accepts service of all pleadings in this adversary proceeding on behalf of Archbishop ListECKi.

² The Committee respectfully believes that it was permitted under Federal Rule of Civil Procedure 14(a)(1), made applicable in this adversary proceeding pursuant to Federal Rule of Bankruptcy Procedure 7014, to serve Archbishop ListECKi with a summons and complaint containing the Counterclaims without first filing a motion because the Counterclaims were not filed more than 14 days after the Committee filed its original answer to the Complaint. *See* Fed. R. Civ. P. 14(a)(1). Indeed, the Counterclaims were filed as part of the same document as the answer to the Complaint. By filing this Motion, the Movants do not waive their claims or rights to other Rules and procedures which may be applicable.

WHEREFORE, the Committee prays for an Order joining Archbishop Listecky as a Counterdefendant to the above-captioned adversary proceeding, and for such other and further relief as the Court may deem just and proper.

Dated: October 11, 2011

Respectfully submitted,

PACHULSKI STANG ZIEHL & JONES LLP

By /s/

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Dated: October 11, 2011

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By: __/s/_____

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